

DIEMER & WEI, LLP

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Attorneys for Defendants,
ColigoMed, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

National Specialty Pharmacy, LLC, a limited
liability company,

Plaintiff,

vs.

Sameer Padhye, an individual, Maybelline
Sana, an individual, Rayne Bridges, an
individual, Abhinay Padhye, an individual,
ColigoMed, Inc., a Delaware corporation,
Enlil, Inc., a Delaware corporation, and Does
1-50.

Defendants.

Case No. 5:23-CV-4357

**DECLARATION OF PAUL JOHNSON
IN SUPPORT OF DEFENDANT
COLIGOMED, INC.'S MOTION TO
DISMISS FIRST AMENDED
COMPLAINT**

Date: November 30, 2023

Time: 10:00 a.m.

Judge: Honorable P. Casey Pitts

**Place: Courtroom 8, 4th Floor, San Jose
Federal Courthouse**

DECLARATION OF PAUL JOHNSON

1. The following matters are of my own personal knowledge and if called upon to testify to the matters stated herein, I could and would competently testify to them.

2. I am an attorney licensed to practice law before this Court and am an associate at Diemer & Wei, LLP ("Diemer & Wei"), located at 55 S. Market Street, Suite 1420, San Jose, CA 95113, attorneys for Defendant ColigoMed, Inc. ("ColigoMed").

3. Attached as Exhibit A to this declaration is a true and correct copy of the statement of information for Defendant ColigoMed, Inc. on file with the California Secretary of State. I downloaded this statement of information from the Secretary of State website.

4. On October 2, 2023, I sent a meet and confer letter to Cyrus Johnson, counsel for Plaintiff National Specialty Pharmacy, LLC ("NSP"), informing him that his client's First

1 Amended Complaint alleges no facts against ColigoMed to support a cause of action against it and
2 generally fails to meet the well-known pleading standard under *Bell Atl. Corp. v. Twombly*, 550
3 U.S. 544, 570 (2007). I offered to meet and confer with him electronically or telephonically in
4 attempts to resolve the matter without involving the court but have not since received any
5 responsive communication from him. A true and correct copy of this letter is attached hereto as
6 Exhibit B.

7 5. The only communication I have receive from Plaintiff's Counsel, Cyrus Johnson,
8 is an email on September 29, 2023 stating: "I am not certain how previous contact was missed yet
9 it was inadvertently. Appended please find courtesy copy of First Amended Complaint from
10 9.15.23 for your reference." Mr. Johnson did not respond to my later email discussed above in
11 paragraph 4 of this declaration.

12 Dated: October 5, 2023

Diemer & Wei, LLP

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15 /s/ Paul Johnson
16 Paul Johnson
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EXHIBIT A

22-602255

 Secretary of State Statement of Information (California Stock, Agricultural Cooperative and Foreign Corporations)	SI-550
	24 <i>BC</i>
IMPORTANT — Read instructions before completing this form. Fees (Filing plus Disclosure) - \$25.00; Copy Fees - First page \$1.00; each attachment page \$0.50; Certification Fee - \$5.00 plus copy fees	
1. Corporation Name (Enter the exact name of the corporation as it is recorded with the California Secretary of State. Note: If you registered in California using an assumed name, <u>see instructions</u> .) ColigoMed Inc.	

FILED
 Secretary of State
 State of California

FEB 03 2022

26.50/25/PC
 This Space For Office Use Only

2. 7-Digit Secretary of State Entity Number

4841017

3. Business Addresses

a. Street Address of Principal Executive Office - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
1027 Belvedere Lane	San Jose	CA	95129
b. Mailing Address of Corporation, if different than item 3a	City (no abbreviations)	State	Zip Code
c. Street Address of Principal California Office, if any and if different than Item 3a - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
		CA	

4. Officers

The Corporation is required to list all three of the officers set forth below. An additional title for the Chief Executive Officer and Chief Financial Officer may be added; however, the preprinted titles on this form must not be altered.

a. Chief Executive Officer	First Name	Middle Name	Last Name	Suffix
	Sabhpathi	Naidu	Annamaneni	
	Address		City (no abbreviations)	State Zip Code
	1027 Belvedere Lane		San Jose	CA 95129
b. Secretary	First Name	Middle Name	Last Name	Suffix
	Sabhpathi	Naidu	Annamaneni	
	Address		City (no abbreviations)	State Zip Code
	1027 Belvedere Lane		San Jose	CA 95129
c. Chief Financial Officer	First Name	Middle Name	Last Name	Suffix
	Sabhpathi	Naidu	Annamaneni	
	Address		City (no abbreviations)	State Zip Code
	1027 Belvedere Lane		San Jose	CA 95129

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22-602255

5. Director(s)

California Stock and Agricultural Cooperative Corporations ONLY: **Item 5a:** At least one name and address must be listed. If the Corporation has additional directors, enter the name(s) and addresses on Form SI-550A (see instructions).

a. First Name Sabhapathi	Middle Name Naidu	Last Name Annamaneni	Suffix	
Address 1027 Belvedere Lane		City (no abbreviations) San Jose	State CA	Zip Code 95129
b. Number of Vacancies on the Board of Directors, if any				

6. Service of Process (Must provide either Individual OR Corporation.)

INDIVIDUAL - Complete Items 6a and 6b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box		City (no abbreviations)	State CA	Zip Code

CORPORATION - Complete Item 6c only. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) - Do not complete Item 6a or 6b
Cogency Global Inc. (C2003899)

7. Type of Business

Describe the type of business or services of the Corporation Web and mobile based software for healthcare - Digital health platform

8. Labor Judgment

Does an Officer or Director have an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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9. The Information contained herein, including in any attachments, is true and correct.

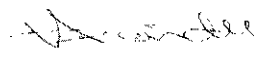
01/21/2022 Date	Sabhapathi Naidu Annamaneni Type or Print Name	President & CEO Title	 Signature
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EXHIBIT B

	LAW OFFICES DIEMER & WEI, LLP 55 S. MARKET STREET, SUITE 1420 SAN JOSE, CALIFORNIA 95113 TELEPHONE: (408) 971-6270 FACSIMILE: (408) 971-6271	
KATHRYN S. DIEMER		JULIA M. WEI
SUSAN B. LUCE PAUL J. JOHNSON		HENRY CHUANG WING DAM

October 2, 2023

CYRUS JOHNSON ESQ.
7300 SH 121 STE. 300
McKinney, Texas 75070
Telephone: (972) 516-4322
Email: email@cyrusjohnson.com

RE: National Specialty Pharmacy, Inc. v. ColiGoMed Inc. et al.

Dear Cyrus Johnson

My firm has been retained by ColigoMed, Inc. to represent it in the lawsuit that you filed against it in the Northern District of California. This lawsuit is to inform you of the defects in the First Amended Complaint ("FAC") and to meet and confer with you regarding dismissal of the FAC.

As you are no doubt aware, a complaint in Federal Court must allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The problems with the complaint you filed are twofold. I previously wrote to you regarding these defects and my firm filed a detailed motion to dismiss on this issues as to the original complaint. The FAC did not address these issues in anyway.

First, the complaint, and the FAC, alleges no facts at all against ColigoMed to support a cause of action against it. ColigoMed is listed as a Defendant in the causes of action for tortious interference, conversion, conspiracy to convert, misappropriation of trade secrets, and unfair business practices. The complaint alleges no action by ColigoMed to support that it is liable under any of these theories, or any under theory. For example, in the context of tortious interference, the Complaint does not allege that ColigoMed was aware of any of Plaintiff's contracts nor that it took any actions to interfere with them.

The only difference as to the allegations regarding ColigoMed appears to be in paragraph 56 of the FAC which now alleges that all of the Defendnats, including ColigoMed "data mined" "sensitive private information and trade secrets" belonging to Plaintiff. The complaint still does not specify at all what ColigoMed supposedly took or how it took. Your use of the word "data mined", which you define as "take" is nonsensical. If the phrase is interpreted as just as to "take" it is utterly ambiguous and adds

no more specificity to the complaint. It is no different than saying “Defendants took Plaintiff’s undefined trade secrets”, which, as laid out in our prior motion to dismiss, falls far short of the federal pleading standard. Webster defines datamining as “the practice of searching through large amounts of computerized data to find useful patterns or trends.” Nothing in your complaint specifies that ColigoMed did this to any of your client’s private data.

Second, the only facts alleged specifically in regard to ColigoMed is that “On information and belief, it is suspected that Defendant Padhye also owns and/or controls Coligomed and that Coligomed acted as a conduit and/or recipient of beneficiary of improperly obtained company proprietary property” FAC, ¶ 8. Primarily, this fails to satisfy any federal pleading standard to support a cause of action. Additionally, attached to this letter is the Statement of Information for ColigoMed on file with the California Secretary of State. A-Padhye is listed no where on the statement of information and A-Padhye in fact has no ownership interest in ColigoMed. Please also note that Federal Rule of Civil Procedure 11(b)(3) requires that factual allegations in a complaint have evidentiary support or are likely to have evidentiary support.

We will set the hearing for the motion to dismiss on November 30, 2023. Please let us know if you are unavailable on that date.

My firm is available to meet and confer regarding the amended complaint by e-mail, and we are available to set up a telephone call to discuss your complaint anytime this week. My e-mail address is pjohnson@diemerwei.com.

Very Truly Yours,

Paul Johnson, Esq.